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EXAMINER	
FAN, HONGMIN	
ART UNIT	PAPER NUMBER
2612	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/565,552	COHEN, DAVID	
	Examiner	Art Unit	
	HONGMIN FAN	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 January 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-69* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-69* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Drawings

The drawings are objected to because there should be some description, i.e. legends, to clearly indicate claimed subject matters in Fig. 2 and 3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 11 is objected to because of the following informalities: line 2, "said input unit” should be – said input units --.

Claim 63-64 and 66 are objected to because of the following informalities: line 2, "said indication of an alarm state" should be – an indication of said alarm state --. (since there is no indication claimed in either claim 1 or claim 32)

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claim 63 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, it is not clear what the words "any of …" mean, i.e. all or one of the followings.

Claim 65 recites the limitation "said indication of an alarm state" in line 2-3. There is insufficient antecedent basis for this limitation in the claim.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory

double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-68 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-4, 8-10, 12-14, 17-18, 20-28, 42-53, 57-, 5963, 66-70, 72-96 of copending Application No.10902874. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claims 1-68 are rejected in corresponding sequential order of the claims 1-4, 8-10, 12-14, 17-18, 20-28, 42-53, 57-, 59-63, 66-70, 72-96 of copending Application No.10902874.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-11, 16-19, 21-29, 32-37, 39-40, 43-52, 57-60, 63, 68-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobsen et al (US 6198394) in view of Humbard (US Pub. 200/0210147).

As to claim 1-2 and 8, referring to Fig. 1-4, Jacobsen et al disclosed a system for remote monitoring of personnel comprising a senor unit which has heart rate sensor 24

(i.e. stress input unit), motion/shivering/position detector 22 (i.e. physical input unit) or accelerometer 100, a soldier unit 50 comprising a controller 31 having a medical diagnosis module 314 (i.e. comparator unit). The sensors communicate with the soldier unit which can process the information to ensure that the sensor data falls within acceptable ranges and communicate with remote monitors (Abs., line 4-8). The information from the sensors is processed in the controller 310, which accesses data storage 312, includes software or firmware with medical diagnosis algorithms 314, and communications protocols 316 to store relevant information, to communicate needed information to the leader/medical units and command units. When the signals conveyed indicate problem situations, the controller may produce an audible or other alarm (col. 11, line 40-47).

Jacobsen et al did not explicitly disclose to detect substantially simultaneous stress level change and a physical reaction in the person. However, it is known in the art to do so. Humbard teaches a system for monitoring user well being wherein smart software 36 may be installed in the user monitor module 20, the receiver module 30 and/or the supervisory module 40 to determine whether to alert the supervisor when several events related to the well being of the user occur at the same time. For example, if the acceleration detector 26 detects that there has been a lack of acceleration (or motion) of the user's body that reaches a threshold value and the pulse detector 25 detects a decrease in pulse that also reaches a threshold value, the software 36 may determine that the combination of the two events indicates that the user is asleep. In that situation, the receiver module 30 may defer transmitting the

second indication to the supervisory module 40 unless both events continue for a prolonged period of time.

Therefore, it would have been obvious to one of ordinary skills in the art at the time of the invention to detect substantially simultaneous stress level change and a physical reaction in Jacobsen's system since it is known in the art.

As to claim 3-4, referring to Fig. 1, the remote monitoring system is attached to trunk region of a person 10.

As to claim 5, the claim is interpreted and rejected as claim 1.

As to claim 6, referring to Fig. 4A, Jacobsen et al disclosed breathe rate sensor 296.

As to claim 7, Jacobsen et al disclosed sensors may be included (e.g. blood pressure, breathing rate and oxygen saturation) to determine if the soldier is perspiring (i.e. sweat) (col. 6, line 29-31).

As to claim 9, Jacobsen et al disclosed sensors for determining the soldier's position (i.e. whether standing or in a prone position) (i.e. inclination) (col. 6, line 21-27).

As to claim 10, the claim is interpreted and rejected as claim 1.

As to claim 11, Jacobsen et al disclosed the soldier unit 50 contained within the harness 56 is responsive to the integrated sensor unit 14 and wrist sensor/display unit 18 in that it receives sensor data and communicates the data to a remote monitoring unit, such as the leader/medic unit and/or the command unit (col. 6, line 52-57).

As to claim 16, the claim is interpreted and rejected as claim 1 (i.e. shivering/motion detection).

As to claim 17, Jacobsen et al disclosed preferably the soldier unit 50 is disposed in such a way that the soldier will barely notice its presence and his/her performance will not be impaired (col. 6, line 63-65).

As to claim 18-19, referring to Fig. 4A, Jacobsen et al disclosed a GPS 70 is used for geolocation of the soldier 10 (col. 7, line 24-26).

As to claim 21, Jacobsen et al disclosed the soldier unit 50 can have a data storage device which keeps a data record of physiological information for some given length of time (col. 7, line 13-16).

As to claim 22, the claim is interpreted and rejected as claim 1.

As to claim 23, the claim is interpreted and rejected as claim 2.

As to claim 24, the claim is interpreted and rejected as claim 5.

As to claim 25, the claim is interpreted and rejected as claim 6.

As to claim 26, the claim is interpreted and rejected as claim 7.

As to claim 27, the claim is interpreted and rejected as claim 9.

As to claim 28, the claim is interpreted and rejected as claim 10.

As to claim 29, the claim is interpreted and rejected as claim 11.

As to claim 32-33, the claims are interpreted and rejected as claim 1.

As to claim 34, the claim is interpreted and rejected as claim 8.

As to claim 35, the claim is interpreted and rejected as claim 1.

As to claim 36, the claim is interpreted and rejected as claim 1.

As to claim 37, the claim is interpreted and rejected as claim 19.

As to claim 39, the claim is interpreted and rejected as claim 19.

As to claim 40, referring to Fig. 1, Humbard teaches threshold adjustment module 32 for dynamic changing of rules.

As to claim 43, the claim is interpreted and rejected as claim 1.

As to claim 44, the claim is interpreted and rejected as claim 3.

As to claim 45, the claim is interpreted and rejected as claim 4.

As to claim 46, the claim is interpreted and rejected as claim 5.

As to claim 47, the claim is interpreted and rejected as claim 6.

As to claim 48, the claim is interpreted and rejected as claim 7.

As to claim 49, the claim is interpreted and rejected as claim 8.

As to claim 50, the claim is interpreted and rejected as claim 9.

As to claim 51, the claim is interpreted and rejected as claim 10.

As to claim 52, the claim is interpreted and rejected as claim 11.

As to claim 57, the claim is interpreted and rejected as claim 16.

As to claim 58, the claim is interpreted and rejected as claim 17.

As to claim 59, the claim is interpreted and rejected as claim 18.

As to claim 60, the claim is interpreted and rejected as claim 19.

As to claim 62, the claim is interpreted and rejected as claim 21.

As to claim 63, the claim is interpreted and rejected as claim 1, i.e. detection of physiological change due to an impact (i.e. sudden acceleration).

As to claim 68, Jacobsen et al further disclosed the command unit is able to view the locations of large groups of soldiers (col. 4, line 62-64).

As to claim 69, the claim is interpreted and rejected as claim 68.

Claims 12-15, 30-31, 52-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobsen et al in view of Humbard, further in view of Pilz (US Pub. 2007/0282177).

As to claim 12 and 15, Jacobsen et al or Humbard did not disclose automatic opening of a communication channel to a central controller. However, it is well known in the art to automatically open a communication channel, such as video link, to a central controller. Referring to Fig. 1, Pilz teaches a system for remote monitoring bodily functions wherein If the measured values pass significantly below the threshold value or values, the comparator unit automatically sends an alarm signal over the Bluetooth connection a to the mobile telephone 12, which then likewise automatically initiates the transmission of an alarm announcement over the mobile wireless connection b to the mobile telephone 14 on the pulmonary centre side (i.e. central controller), causing an alarm announcement to appear on a display unit 15, for example, a PC screen, attached thereto (¶0031, line 5-10). Therefore, it would have been obvious to one of ordinary skills in the art at the time of the invention to automatically open a communication channel, such as video link, to a central controller in Jacobsen's system since it is well known in the art.

As claim 13-14, Jacobsen et al disclosed when the signals conveyed indicate problem situations, help may be dispatched, the controller may produce an audible or other alarm (col. 11, line 46-49) and the leader/medic unit 320 preferably stores a minimum of four hours of history data in the memory unit 349 and sounds an audible

alarm or generates some other message 351 in the event that one or more defined thresholds are exceeded (col. 12, line 25-28).

As to claim 30, the claim is interpreted and rejected as claim 12.

As to claim 31, the claim is interpreted and rejected as claim 16.

As to claim 52, the claim is interpreted and rejected as claim 11.

As to claim 53, the claim is interpreted and rejected as claim 12.

As to claim 54, the claim is interpreted and rejected as claim 13.

As to claim 55, the claim is interpreted and rejected as claim 14.

As to claim 56, the claim is interpreted and rejected as claim 15.

Claims 20, 41-42, 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobsen et al in view of Humbard, further in view of Bozzone (US Pub. 2005/0033515).

As to claim 20, Jacobsen et al or Humbard did not disclose a direction sensor comprising a compass. However, it is well known in the art to have a compass for obtaining direction information. Bozzone teaches a wireless personal tracking system wherein pedometer 130 may contain an electronic compass 136 such as a calibrated magnetometer to determine heading (i.e. direction) information. Therefore, it would have been obvious to one of ordinary skills in the art at the time of the invention to have a compass for obtaining direction information in Jacobsen's system since it is well known in the art.

As to claim 41-42, the claims are interpreted and rejected as claim 20.

As to claim 61, the claim is interpreted and rejected as claim 20.

Claims 38, 63-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobsen et al in view of Humbard, further in view of Evanyk et al (US Pub. 2004/0225199).

As to claim 63, Jacobsen et al or Humbard did not disclose an impact sensor. However, it is known in the art to use an impact sensor. Evanyk et al teach an advanced physiological monitoring system comprising a piezoelectric sensor (¶0068, line 23). Therefore, it would have been obvious to one of ordinary skills in the art at the time of the invention to use an impact sensor in Jacobsen's system since it is known in the art.

As to claim 38, the claim is interpreted and rejected as claim 63.

As to claim 64-66, the claims are interpreted and rejected as claim 63.

Conclusion

Koutsky disclosed a vehicle seat with vibration monitoring ability (US 7256686).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hongmin Fan whose telephone number is 571-272-2784. The examiner can normally be reached on Monday - Friday, 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HF

/Davetta W. Goins/

Acting SPE of Art Unit 2612